UNITED NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/47/1000
S/26297
13 August 1993
ENGLISH
ORIGINAL: ENGLISH/FRENCH

GENERAL ASSEMBLY
Forty-seventh session
Agenda item 22
THE SITUATION OF DEMOCRACY AND
HUMAN RIGHTS IN HAITI

SECURITY COUNCIL
Forty-eighth year

Report of the Secretary-General

1. The present report is a follow-up to the report dated 12 July 1993 (A/47/975-S/26063) by which the Secretary-General informed the Security Council of the signature of the Governors Island Agreement. It is being submitted in pursuance of paragraph 15 of Security Council resolution 841 (1993) of 16 June 1993, in which the Council requested the Secretary-General to report to it on progress achieved in the efforts jointly undertaken by him and the Secretary-General of the Organization of American States (OAS) with a view to reaching a political solution to the crisis Haiti.

2. Following the signature of the Governors Island Agreement on 3 July 1993, Mr. Dante Caputo, the Special Envoy of the Secretaries-General of the United Nations and OAS, invited the representatives of the main political forces in Haiti and of the political blocs in Parliament to participate, together with the members of the Presidential Commission which represents President Aristide in Haiti, at a political dialogue to discuss the agenda set forth in point 1 of the Governors Island Agreement.

3. The inter-Haitian political dialogue convened at United Nations Headquarters from 14 to 16 July 1993. At its conclusion the participants signed a new document, known as the New York Pact, which provides for a political truce of six months' duration, a procedure to enable Parliament to resume its normal functioning, and agreements for the early confirmation of the Prime Minister nominated by the President to head a Government of national concord, and for the adoption of the legal instruments necessary for ensuring the transition. (The text of the New York Pact is reproduced in the annex to the present report.)

4. Under the Pact, the political forces and parliamentary blocs have undertaken inter alia to refrain from tabling in Parliament any motion of no-confidence against the new Government of national concord, to secure the immediate release of all persons detained for offences relating to their views (délits d'opinion) and to have the status of prisoners reviewed, to promote the establishment of a Compensation Commission for the victims of the coup d'état, and to ensure the confirmation of the new Prime Minister without delay.

5. The signatories of the Pact have also undertaken to ensure the passage by Parliament of a series of bills under an emergency procedure, including those regarding the establishment of a new police force, an amnesty, the abolition of all paramilitary forces, the establishment of a Citizens' Protection Bureau, and the reform of the administration of justice system.

6. The Pact reaffirms the right of the Executive, within the framework of its powers, to review the various decrees and orders adopted in the period from 30 September 1991 to 3 July 1993 that are not in accordance with the Constitution, in particular, the order setting up the Permanent Emergency Electoral Council.

7. As regards the 13 Members of Parliament who derived their mandate from the partial elections held on 18 January 1993, which had been declared illegitimate by the General Assembly in its resolution 47/20 B of 20 April 1993 and by the Permanent Council of OAS, it was agreed that they should voluntarily refrain from occupying their parliamentary seats until such time as the Conciliation Commission, an organ established under the Constitution but whose functioning requires the adoption by Parliament of a law under the emergency procedure, had definitively pronounced itself on the matter.

8. It is the understanding of the Secretary-General that the formula agreed to under paragraph 6 of the Pact signifies that the members of the Senate and of the Chamber of Deputies who derive their mandate from the contested elections of 18 January 1993 are to abstain from participating in any business of the Parliament, including intervention in the debate and voting. Failure to comply with this formula would constitute, in his view, a serious breach of the Governors Island Agreement, which would be immediately reported to the Security Council. The Secretary-General further considers that the decision to refer the matter to the Conciliation Commission is not based upon any finding that there exists any conflict between the Executive and the Legislature or between the two Chambers of Parliament, but is a product of a political agreement to overcome an exceptional crisis. During the political dialogue, the Special Envoy repeated that the position of the United Nations with regard to the legitimacy of the January elections remained unchanged.

9. The undertakings enshrined in the Pact, like all agreements arrived at under the Governors Island Agreement, are subject to verification by the United Nations and by OAS.

10. The Secretary-General wishes to express his appreciation for the efforts undertaken during the inter-Haitian political dialogue by the Governments of Canada, France, the United States of America and Venezuela as "Friends of the Secretary-General", and on whose continued assistance he is relying during the implementation phase of the agreements.

11. On 24 July 1993, President Jean-Bertrand Aristide informed the Presidents of the two Chambers of Parliament of his intention to nominate Mr. Robert Malval as Prime Minister. A new bureau was elected in the Chamber of Deputies on 22 and 28 July and in the Senate on 10 August. With the normalization of Parliament, the way has been cleared for the ratification of the Prime Minister. When the new Prime Minister receives a vote of confidence from the two Chambers

of Parliament, the three first points in the Governors Island Agreement will have been duly carried out.

12. As soon as the Prime Minister has taken office, the Secretary-General, as proposed in his previous report (A/47/975-S/26063) and agreed in the letter addressed to him by the President of the Security Council on 15 July 1993 (S/26085), will recommend to the Security Council that the sanctions it imposed by resolution 841 (1993) should immediately be suspended. The suspension will automatically be terminated and sanctions reimposed if at any time he, having regard to the view of the Secretary-General of OAS, reports to the Council that the parties to the Governors Island Agreement or any authorities in Haiti have failed to comply in good faith with the Agreement. Some of the circumstances which would lead the Secretary-General to conclude that such a breach had occurred are spelt out in paragraph 8 above and in paragraph 11 of his previous report.

ANNEX

[Original: French]

New York Pact

1. In the spirit of the Governors Island Agreement of 3 July 1993, the political forces and parliamentary blocs signatories to the present Agreement undertake to observe a political truce to guarantee a smooth and peaceful transition. The duration of this truce shall be six months, beginning upon signature of the present document. The objective of the truce is to create throughout the country a climate of pacification to facilitate the work of the Government of national concord. The signatories therefore appeal to all social sectors to put an end to all forms of violence.

2. The political forces and parliamentary blocs:

(a) Undertake to refrain during this period from tabling any motion of no-confidence against the new Government of national concord, in so far as the Executive scrupulously respects the Constitution and the laws of the Republic; and undertake to guarantee that there is a quorum as a result of their presence and not to obstruct the work of Parliament;

(b) Call upon the Haitian Armed Forces to respect the Agreement signed on 3 July at Governors Island;

(c) Call for an end to arbitrary practices from whatever quarter, particularly unlawful arrests, physical torture, disappearances, political assassinations and personal revenge;

(d) Undertake to secure the immediate release of all persons detained for offences relating to the views they hold and to have the status of prisoners throughout the territory of Haiti reviewed, on the basis of an accelerated procedure;

(e) Undertake to take all the necessary steps to promote and guarantee full respect for human rights and fundamental freedoms;

(f) Undertake, pending the establishment of the Citizens' Protection Bureau, to promote the establishment of a Compensation Commission for the victims of the coup d'état;

(g) Undertake to refrain from any kind of action that could lead to violence or disrupt the transition to democracy;

(h) Undertake to promote the immediate reform of the judicial system.

3. The political forces and parliamentary blocs, with a view to ensuring the prompt restoration of constitutional order:

(a) Invite the President of the Republic to nominate as soon as possible the new Prime Minister of national concord, in accordance with the Constitution;

(b) Undertake to ensure the confirmation of the new Prime Minister selected, in accordance with the Constitution, without delay.

4. The political forces and parliamentary blocs undertake to ensure that the following laws are passed, on the basis of an emergency procedure:

(i) Act on the establishment, organization and operation of the Police Force, in accordance with article 263 of the Constitution;

(ii) Act concerning the amnesty;

(iii) Act establishing a compensation fund for the victims of the coup d'état;

(iv) Act concerning the abolition of all paramilitary forces, in accordance with article 263-1 of the Constitution;

(v) Act concerning the establishment, organization and operation of the Citizens' Protection Bureau;

(vi) Act on territorial authorities;

(vii) Act on the prison administration;

(viii) Act concerning the establishment, organization and operation of the Conciliation Commission;

(ix) Act on university reform and autonomy.

5. The Executive, within the framework of its powers, may begin the procedure of reviewing the various decrees and decisions adopted in the period from 30 September 1991 to 3 July 1993 that are not in accordance with the current Constitution, first and foremost Order No. 101, of 7 December 1992, setting up the Permanent Emergency Electoral Council.

6. The solution of the political crisis and the social pacification of the country call for a solution to the problem of the presence in Parliament of citizens elected as a result of the contested elections of 18 January 1993. To that end, it has been agreed that the members of Parliament elected as a result of those elections shall undertake not to obstruct the operation of the parliamentary institution and that they shall voluntarily refrain from occupying their parliamentary seats until such time as the constitutional institution empowered to consider this dispute has rendered its verdict.

In view of the fact that, under paragraph 4 of this Agreement, the Act establishing the Conciliation Commission is to be adopted as soon as possible after the installation of the Government of national concord, it has been agreed that once that Commission has been set up the matter in dispute shall be referred to the Commission.

The United Nations and OAS undertake, by making two experts available, to make a technical and juridical contribution to the preparation of the Act establishing the Conciliation Commission and to its implementation.

It has also been agreed that the Conciliation Commission shall be the only body in the country called upon to pronounce definitively on this issue.

DONE at United Nations Headquarters, New York,
on 16 July 1993